



DOCKET NO. 3135.003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/087,196
Applicant(s) : Roger Proksch
Filed : 2/28/02
TC/A.U. : 2856
Examiner : Thomas Noland

Docket No. : 3135.003
Customer No. : 26375
Confirmation No. : 8618

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JAN 30 2004

OFFICE OF PETITIONS

PETITION UNDER 37 CFR 1.10(C) TO CORRECT FILING DATE

Commissioner for Patents
Mail Stop Petitions
Alexandria, VA 22313-1450

Attention: Assistant Commissioner of Patents

Dear Sir:

Applicants respectfully request correction of the filing date for the above-identified patent application. In accordance with 37 CFR 1.10, Applicants mailed the above-identified patent application on February 28, 2002 via Express mail to "Assistant Commissioner for Patents, Box Patent Application, Washington, DC, 20231."

In support of Applicants assertion that the above-identified patent application was filed according to 37 CFR 1.10, the following documentation has been attached hereto:

- Exhibit A - "a true copy of the Express Mail mailing label showing the date-in¹"

¹ 37 CFR 1.10(c)(3)

- Exhibit B - a copy of the official USPS receipt indicating that Applicants mailed a package (i.e. the above-identified patent application) via Express Mail on February 28, 2002, which is relied on as "other official notation by the USPTO relied upon to show the date of deposit²"
- Exhibit C - a copy of the Utility Patent Application Transmittal having the correct number of the Express Mail mailing label entered thereto³ (i.e. ET103595955US), signed February 28, 2002, and indicating the submission of a specification (14 pages), drawings (8 sheets), Fee Transmittal Form, and a priority claim to Provisional Application No. 60/272,697
- Exhibit D - a copy of the specification (14 pages and 1 claim) having the correct number of the Express Mail mailing label entered thereto⁴ (i.e. ET103595955US) and drawings (8 sheets) as filed on February 28, 2002
- Exhibit E - a copy of the Fee Transmittal Form (PTO/SB/17) indicating the submission of a single claim and signed February 28, 2002

In view of the preponderance of evidence showing that the above-identified patent application was in fact filed according to the provisions of 37 CFR 1.10 on February 28, 2002, Applicants respectfully request correction of the filing date such that the priority claim to US Provisional Application 60/272,697 of Proksch, filed on February 28, 2001, is perfected.

² 37 CFR 1.10(c) (3)

³ 37 CFR 1.10(c) (2)

⁴ 37 CFR 1.10(c) (2)

Being filed simultaneously with this petition is a Request for Continued Examination (RCE) according to 37 CFR 1.114 which addresses issues raised by the Examiner in an *Ex parte* Quayle action, including the rejection of the claimed priority date.

Although Applicants believe no fee is due as the incorrect filing date for the above-identified patent application was entered by the Office, should any fees be required please debit Deposit Account No. 50-1616.

Should there remain any outstanding issues that require our attention, it is respectfully requested that the Petitions Attorney telephone the undersigned at (805)781-2865 so that such issues may be resolved as expeditiously as possible.

Respectfully Submitted,


SINSHEIMER, SCHIEBELHUT & BAGGETT

Thomas F. Lebens
Reg. No. 38,221

Address all correspondence to:
SINSHEIMER, SCHIEBELHUT & BAGGETT
1010 Peach Street
P.O. Box 31
San Luis Obispo, CA 93406

Direct telephone inquiries to:
Thomas F. Lebens
805-781-2865